

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP,)
et al.,)
)
Plaintiffs,)

vs.)

Case No: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his)
official capacity as the)
Governor of North Carolina,)
et al.,)
)
Defendants.)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)
)
Plaintiffs,)

vs.)

Case No: 1:13-CV-660

THE STATE OF NORTH CAROLINA,)
et al.,)
)
Defendants.)

UNITED STATES OF AMERICA,)
)
Plaintiff,)

vs.)

Case No: 1:13-CV-861

THE STATE OF NORTH CAROLINA,)
et al.,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF

DONALD SCHROEDER, Ph.D.

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VIDEOTAPED DEPOSITION OF
DONALD SCHROEDER, Ph.D.

1:29 P.M.

MONDAY, JUNE 2, 2014

OGLETREE DEAKINS NASH SMOAK & STEWART
4208 SIX FORKS ROAD
SUITE 1100
RALEIGH, NORTH CAROLINA

By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

1 BY MR. NKWONTA: 01:30

2 Q. Is Exhibit 78 your report in this case? 01:31

3 A. Yes. 01:31

4 Q. Is that your c.v. at the back of your report -- 01:31

5 I'll get you the page number -- starting on 01:31

6 page 8 of your report? 01:31

7 A. Yes. 01:31

8 Q. According to your c.v., your primary teaching 01:31

9 fields are political philosophy and 01:31

10 constitutional law, correct? 01:31

11 A. Yes. 01:31

12 Q. How many publications have you prepared since 01:31

13 you've been a professor at Campbell University? 01:31

14 A. Couple of articles. One on "Aristotle on Law" 01:32

15 was originally published in a -- it was -- 01:32

16 reappeared in an actual book more recently. 01:32

17 The other article on "Aristotle on the 01:32

18 Good of Virtue-Friendship," the article on 01:32

19 John's Rawls and then there are the papers that 01:32

20 I presented in various conferences. 01:32

21 Q. The three articles you mentioned, "Aristotle on 01:32

22 Law, Aristotle on the Good of 01:32

23 Virtue-Friendship, John Rawls and Contract 01:32

24 Theory," are those the only articles that have 01:32

25 been published? 01:32

1 A. Yes. 01:32

2 Q. Are those all published in peer-reviewed 01:32

3 journals? 01:32

4 A. Yes. 01:32

5 Q. You obtained your Ph.D. in political science in 01:33

6 1975, correct? 01:33

7 A. Yes. 01:33

8 Q. It's almost 40 years ago? 01:33

9 A. Yes. 01:33

10 Q. In that amount of time you've published three 01:33

11 articles and two of them on Aristotle. What 01:33

12 other work have you done relevant to your field 01:33

13 that has been published anywhere else, whether 01:33

14 peer-reviewed journal or some other journal? 01:33

15 A. That's pretty much it. 01:33

16 Q. What is your current position at Campbell 01:33

17 University? 01:33

18 A. I'm associate professor. 01:33

19 Q. I'm not familiar with the academic community. 01:33

20 What are the different levels of -- that a 01:33

21 professor can occupy in Campbell University? 01:34

22 A. Well, of course, the highest is full professor, 01:34

23 then associate, assistant, and instructor. 01:34

24 Q. When you first joined Campbell University, what 01:34

25 was your position? 01:34

- 1 A. Assistant professor. 01:34
- 2 Q. When did you become an associate professor? 01:34
- 3 A. I was there for about I believe seven years, so 01:34
- 4 around '84, '85. 01:34
- 5 Q. You've been an associate professor for 01:34
- 6 approximately 30 years? 01:34
- 7 A. Yes. 01:34
- 8 Q. When did -- when did you join Campbell 01:34
- 9 University originally? 01:34
- 10 A. 1978. 01:34
- 11 Q. Have you published any articles or presented 01:35
- 12 any papers relating to voting laws? 01:35
- 13 A. No. 01:35
- 14 Q. Do you teach any classes relating to voting 01:35
- 15 laws? 01:35
- 16 A. Yes, Political Parties. We get into it in 01:35
- 17 Political Parties, and we also get into it 01:35
- 18 somewhat in my basic Introduction to American 01:35
- 19 Politics. 01:35
- 20 Q. What types of laws do you cover when you teach 01:35
- 21 voting laws in your Political Parties class? 01:35
- 22 A. For the most part, constitutional law, and 01:35
- 23 we'll get into statutory law insofar as it is 01:35
- 24 relevant to the constitutional law cases that 01:35
- 25 we discuss. 01:35

- 1 Q. Specifically what types of constitutional laws 01:35
2 would you consider in the Political Parties 01:36
3 class? 01:36
- 4 A. The Political Parties class, those having to do 01:36
5 with voting rights, those having to do with 01:36
6 campaign financing, anything which has to do 01:36
7 with regulation of the electoral process. 01:36
- 8 Q. Have you prepared any papers for presentation 01:36
9 or published any articles relating to access to 01:36
10 the polls? 01:36
- 11 A. No. 01:36
- 12 Q. Have you participated in any seminars relating 01:36
13 to access to the polls or voting rights? 01:36
- 14 A. I can't think of any offhand. 01:36
- 15 Q. What formal education have you obtained that is 01:37
16 relevant to the voting laws being passed or 01:37
17 amended under HB 589? 01:37
- 18 MR. STRACH: I'm going to object to the 01:37
19 form of that question, but you can answer that. 01:37
- 20 THE WITNESS: Okay. Well, the courses 01:37
21 I took as an undergraduate and a graduate 01:37
22 student, particularly courses that I took in 01:37
23 political parties and the constitutional law 01:38
24 courses that were -- that had to do with rights 01:38
25 in general. 01:38

- 1 A. I discuss the North Carolina law this past 01:41
2 semester mainly because it's relevant. Usually 01:42
3 it would not automatically come up. It's just 01:42
4 become a fairly recent political issue. So 01:42
5 since it's become timely, I make a point of 01:42
6 covering it. 01:42
- 7 Q. So aside from the North Carolina voter 01:42
8 registration laws, does your Political Parties 01:42
9 course or any other course that you've given or 01:42
10 taken discuss or address specific voter 01:42
11 registration procedures or laws? 01:42
- 12 A. As of this fall, yes, the Political Parties 01:42
13 class will definitely focus on it and that's 01:42
14 because it has become so timely. 01:42
- 15 Q. Right. My question was a little different, 01:42
16 though. 01:42
- 17 Up until now, have any of the courses 01:42
18 that you have given or taken in your 01:42
19 educational background address voter 01:43
20 registration procedures in any state, specific 01:43
21 voter registration procedures? 01:43
- 22 A. Yes, and that would be the introductory course 01:43
23 in American Politics and the Political Parties 01:43
24 course, and when we get to the 14th and 15th 01:43
25 Amendment in the Constitutional Law course and 01:43

1 the seminars certainly, the seminar I teach on 01:43
2 constitutional law. 01:43

3 Q. Aside from the seminars and the courses, do you 01:43
4 have any other experiences either in your 01:43
5 educational background or in your career that 01:43
6 address voter registration laws, photo ID laws 01:43
7 for voters, early voting or pre-registration? 01:43

8 A. Not formally, no. 01:44

9 Q. Have you ever testified as an expert in court 01:44
10 before? 01:44

11 A. No. 01:44

12 Q. You mentioned you've never been deposed before. 01:44

13 A. No. 01:44

14 Q. Have you ever been designated as an expert 01:44
15 before in a case? 01:44

16 A. No. 01:44

17 Q. You've been retained to provide an opinion in 01:44
18 this matter, correct? 01:44

19 A. Yes. 01:44

20 Q. What opinions have you reached in this matter? 01:44

21 A. What I was interested in is how North Carolina 01:44
22 changed its voter registration laws and 01:44
23 procedures, election laws in the past year and 01:45
24 how that related to the election statutes in 01:45
25 the other states. 01:45

- 1 Q. And what opinions have you reached? 01:45
- 2 A. I came to the conclusion that the changes made 01:45
- 3 put North Carolina well within the mainstream 01:45
- 4 of what other states are doing. 01:45
- 5 Q. Do you have any other opinions that you have 01:45
- 6 provided or plan to proceed in this case? 01:45
- 7 A. No. That's basically it. So it was a very 01:45
- 8 narrow, fairly contained question that I dealt 01:46
- 9 with and it doesn't really go beyond that. 01:46
- 10 Q. What did you do to reach that opinion? 01:46
- 11 A. I read the statutes of the -- the election 01:46
- 12 statutes of the other states looking for 01:46
- 13 specific things like when registration is cut 01:46
- 14 off, what kind of identification, if any, is 01:46
- 15 needed in order to vote, procedures for 01:46
- 16 absentee voting, early voting. 01:46
- 17 Q. Did you do anything else? 01:46
- 18 A. Well, of course I compared them to each other 01:46
- 19 and to the North Carolina law. 01:47
- 20 Q. Did you review any other literature in 01:47
- 21 preparing your analysis or comparison? 01:47
- 22 A. I consulted a couple of websites. The website 01:47
- 23 for the National Conference of State 01:47
- 24 Legislatures. 01:47
- 25 Q. Any other websites? 01:47

- 1 A. The -- I have to think of the name of it. It's 01:47
2 one of my favorite websites. The one at 01:47
3 Cornell, Institute for Legal Education or 01:47
4 something like that, Legal Studies. That's not 01:47
5 the exact name of the site, but it's -- it's a 01:48
6 very useful site. 01:48
- 7 Q. So you reviewed the state's election laws? 01:48
- 8 A. Yes. 01:48
- 9 Q. Reviewed the two websites you just mentioned? 01:48
- 10 A. Yes. 01:48
- 11 Q. And you compared the different states -- 01:48
- 12 A. Yes. 01:48
- 13 Q. -- based on their election laws? 01:48
- 14 A. Yes. 01:48
- 15 Q. Did you do anything else in reaching your 01:48
16 opinions? 01:48
- 17 A. No. 01:48
- 18 Q. If someone else were to review election laws on 01:48
19 this websites, would they be able to -- 01:48
- 20 A. Yes. 01:48
- 21 Q. -- reach the same -- 01:48
- 22 A. Yes. 01:48
- 23 Q. -- conclusion in applying the same information 01:48
24 that you did? 01:48
- 25 A. Yes. 01:48

- 1 Q. Was the information reviewed publicly 01:48
2 available? 01:49
- 3 A. Yes. 01:49
- 4 Q. Other than collecting the election laws, did it 01:49
5 require any additional analysis on your behalf? 01:49
- 6 A. Not really. It was -- it was -- it was a lot 01:49
7 like counting beans, I suppose. 01:49
- 8 Q. So this is something that any of us could do -- 01:49
- 9 A. Yes. 01:49
- 10 Q. -- if we had the information? 01:49
- 11 A. Yeah. You would have to get through the 01:49
12 statutes, certainly, but I'm sure you're 01:49
13 familiar with that. 01:49
- 14 Q. Did you rely on your expertise in political 01:49
15 thought in preparing this? 01:50
- 16 A. Yes. 01:50
- 17 Q. How so? 01:50
- 18 A. Being able to read the statutes and understand 01:50
19 what -- well, first off, finding where in the 01:50
20 statutes the information I was looking for can 01:50
21 be found and then being able to understand it 01:50
22 once I came upon it. 01:50
- 23 Q. Did you conduct any statistical analysis 01:50
24 related to this case? 01:50
- 25 A. Nothing particularly advanced other than simply 01:50

1 counting -- counting beans. 01:50

2 Q. You're not offering any opinions on the effect 01:50

3 of these voting laws on African American or 01:50

4 Latino voters, are you? 01:50

5 A. No. 01:50

6 Q. You're not offering any opinions on whether 01:50

7 these laws have a disparate impact on black or 01:50

8 Latino voters, right? 01:50

9 A. No. 01:51

10 Q. And you're not offering any opinion on the 01:51

11 burden imposed by these laws, are you? 01:51

12 A. No. 01:51

13 Q. Specifically you're not offering any opinion on 01:51

14 the burden imposed on minority voters or young 01:51

15 voters, are you? 01:51

16 A. No. 01:51

17 Q. So your opinion is limited to the statement 01:51

18 that the laws as amended in HB 589 place 01:51

19 North Carolina within the mainstream, right? 01:51

20 A. Yes. 01:51

21 Q. When you say you reviewed the states' election 01:52

22 laws, did you review every state's election 01:52

23 laws? 01:52

24 A. Yes. 01:52

25 Q. Do you have a list of materials or the laws or 01:52

- 1 documents that you relied upon in preparing 01:52
2 your report? 01:52
- 3 A. Just the primary stuff that I found, the 01:52
4 statutes themselves mainly. 01:52
- 5 Q. And did you keep a physical work file or do you 01:52
6 have a list of the statutes somewhere? 01:52
- 7 A. I have the -- I have photocopies of the 01:52
8 statutes in a big box in my office. 01:52
- 9 Q. Were you asked to provide a list of materials 01:52
10 that you relied upon with your report? 01:52
- 11 A. No. 01:52
- 12 Q. Is that something you would be able to provide 01:52
13 readily if we asked for it? 01:52
- 14 A. I could, yes. 01:52
- 15 Q. Based on your review of the record and 01:53
16 everything that you've reviewed in this case, 01:53
17 is there any other opinion that you have formed 01:53
18 that you have not expressed? 01:53
- 19 A. No. 01:53
- 20 Q. When were you first contacted to work on this 01:53
21 case? 01:53
- 22 A. About -- okay. It was in March. 01:53
- 23 Q. Who contacted you? 01:53
- 24 A. Mr. Strach. 01:53
- 25 Q. And what were you asked to do? 01:53

- 1 A. I was asked to review the statutes and compare 01:53
2 them -- compare the new North Carolina law to 01:53
3 what other states were doing. 01:53
- 4 Q. Anything else? 01:53
- 5 A. That was basically it. 01:53
- 6 Q. Did Mr. Strach or anyone else send you any 01:54
7 materials? 01:54
- 8 A. Yeah. Basically photocopies of the statutes. 01:54
- 9 Q. Of which statutes? 01:54
- 10 A. Of the election -- election law statutes in the 01:54
11 50 states. 01:54
- 12 Q. So you didn't actually collect the election law 01:54
13 statutes? 01:54
- 14 A. I did not, no. 01:54
- 15 Q. One of the attorneys collected the statutes and 01:54
16 provided them to you? 01:54
- 17 A. Yes. 01:54
- 18 Q. And you simply read the statutes that were 01:54
19 provided to you? 01:54
- 20 A. I read the statutes and I went to the -- a 01:54
21 variety of websites for the state governments 01:54
22 and followed the links confirming what I had 01:54
23 was in fact what existed in the states. 01:54
- 24 Q. What types of websites would you go to confirm 01:55
25 the accuracy of the statutes that you received? 01:55

- 1 A. Just about every state has -- every state 01:55
2 legislature has its own website with a link to 01:55
3 virtually all of their statutes. They're well 01:55
4 indexed, very easy to follow. 01:55
- 5 Q. Did you confirm the statutes you received for 01:55
6 each and every one of the 50 states online? 01:55
- 7 A. Yes. 01:55
- 8 Q. So you looked up the statutes yourself? 01:55
- 9 A. Yes. 01:55
- 10 Q. Even though you received them from the 01:55
11 attorneys? 01:55
- 12 A. Yes. 01:55
- 13 Q. Did you receive any other material from the 01:55
14 attorneys? 01:55
- 15 A. No. 01:55
- 16 Q. Did you ever speak to any other experts? 01:55
- 17 A. I sometimes would bounce ideas off of my 01:55
18 colleagues at Campbell. 01:56
- 19 Q. Right. What I mean was did you ever speak to 01:56
20 any other experts retained in this case? 01:56
- 21 A. No. 01:56
- 22 Q. Did you rely on any work prepared by any other 01:56
23 experts? 01:56
- 24 A. No. 01:56
- 25 Q. When you prepared your report, did you intend 01:56

1 to be accurate in stating your opinions? 01:56

2 A. Yes. 01:56

3 Q. And the basis and the reasons for your 01:56
4 opinions? 01:56

5 A. Yes. 01:56

6 Q. I want to go through your opinions individually 01:56
7 starting with your opinion on the photo ID 01:56
8 requirement for voters. 01:56

9 A. Okay. 01:56

10 Q. I believe that starts on page 3 of your report. 01:56

11 A. Yes. 01:56

12 Q. What opinions are you offering related to the 01:56
13 photo ID requirements of voters in 01:57
14 North Carolina? 01:57

15 MR. STRACH: Would you like him to read 01:57
16 it? 01:57

17 MR. NKWONTA: No. Just asking you to 01:57
18 restate your opinion. 01:57

19 THE WITNESS: Just that North Carolina 01:57
20 along with a number of other states have 01:57
21 decided to require the showing of a photo 01:57
22 identification -- government-issued photo 01:57
23 identification when they cast their vote and 01:57
24 just basically included what kind of 01:57
25 identifications would qualify as acceptable in 01:57

1 order to cast a vote. 01:58

2 BY MR. NKWONTA: 01:58

3 Q. You mention in paragraph 5 of your report that 01:58

4 18 additional states have photo ID laws in 01:58

5 effect -- 01:58

6 A. Yes. 01:58

7 Q. -- in 2012; is that right? 01:58

8 A. Yes. 01:58

9 Q. Where did you obtain that data from? 01:58

10 A. From the statutes that I collected, that I 01:58

11 reviewed. 01:58

12 Q. When you reviewed those statutes, did you 01:58

13 review the requirements of those states' photo 01:58

14 ID laws? 01:58

15 A. Yes. 01:58

16 Q. Did you make any distinction between strict and 01:58

17 non-strict photo ID laws? 01:58

18 A. I did not, no. 01:58

19 Q. Do you know what I mean when I say strict and 01:58

20 non-strict voter ID laws? 01:58

21 A. I assume you mean what the National Conference 01:58

22 of State Legislatures referred to. 01:59

23 Q. For the record, can you explain what the 01:59

24 National Conference of State Legislatures 01:59

25 refers to when they say strict versus 01:59

1 non-strict voter ID laws? 01:59

2 A. If I recall correctly, it depended upon what a 01:59

3 state would allow as a substitute for a photo 01:59

4 ID if someone did not have one. 01:59

5 There are a number of those who require 01:59

6 a photo ID which if a person did not have it 01:59

7 would allow for some other form of 01:59

8 identification. There would be a list, 02:00

9 including such things as utility bills and so 02:00

10 forth. What a common requirement would be any 02:00

11 two of the -- any two from the list. 02:00

12 Q. So some states allow voters, you would agree, 02:00

13 to cast a regular ballot even without 02:00

14 presenting photo identification, correct? 02:00

15 A. Yes. 02:00

16 Q. In fact, some of the 18 states that you have 02:00

17 identified as photo ID states would allow 02:00

18 voters to cast a regular ballot without actual 02:00

19 photo identification? 02:00

20 A. Or a provisional ballot. 02:00

21 Q. Right. But what I'm asking is you would agree 02:01

22 that some of those 18 states that you include 02:01

23 in your report would allow voters to cast a 02:01

24 regular ballot -- 02:01

25 A. Yes. 02:01

1 Q. -- without a photo ID, correct? 02:01

2 A. Yes. 02:01

3 Q. Would you also agree that the states that allow 02:01

4 voters to cast a regular ballot without a photo 02:01

5 ID are less restrictive than the states that do 02:01

6 not? 02:01

7 MR. STRACH: Objection to form as to 02:01

8 what "less restrictive" means. 02:01

9 You can answer it if you can. 02:01

10 THE WITNESS: Okay. If you look at the 02:01

11 requirement for photo identification in the 02:01

12 abstract, in other words, independent of voting 02:01

13 opportunities in general, if you look at it in 02:01

14 the abstract and isolated from all those 02:02

15 others, one might conclude, then, that 02:02

16 North Carolina -- the features in 02:02

17 North Carolina's photo ID laws are -- would be 02:02

18 to -- I guess towards the more restrictive pole 02:02

19 of the range of features in a photo ID statute 02:02

20 in the statutes in the other states. 02:02

21 BY MR. NKWONTA: 02:02

22 Q. I just want to the clarify a few things. Your 02:02

23 report actually uses the language less 02:02

24 restrictive and more restrictive, correct? 02:03

25 A. Yeah. 02:03

- 1 Q. In your report you listed -- I'm at page 7 of 02:03
2 your report -- you listed 18 states with more 02:03
3 restrictive voter ID policies; is that right? 02:03
- 4 A. Yes. 02:03
- 5 Q. Let me rephrase. 02:03
6 Your report indicates on page 7 that 02:03
7 there are 18 states with more restrictive voter 02:03
8 ID policies; is that right? 02:03
- 9 A. Yes. 02:03
- 10 Q. That's not correct, is it? 02:03
- 11 A. I guess I could have phrased that more 02:03
12 precisely. I meant basically relative to 02:04
13 states with more permissive policies. 02:04
- 14 Q. So this chart on page 7 says "Policy 02:04
15 Continuum." 02:04
- 16 A. Yes. 02:04
- 17 Q. On the far left it says "States with more 02:04
18 Permissive Policies," correct? 02:04
- 19 A. Yes. 02:04
- 20 Q. In the middle says "NC HB 589," right? 02:04
- 21 A. Yes. 02:04
- 22 Q. And in the far right it says "States with more 02:04
23 Restrictive Policies." 02:04
- 24 A. Yes, relative to the states on the other side. 02:04
- 25 Q. So relative to NC HB 589 and relative to states 02:04

- 1 with more permissive policies? 02:04
- 2 A. Relative to the states with more permissive 02:04
- 3 policies. 02:04
- 4 Q. You would agree, then, that some of those 18 02:04
- 5 states that you listed under states with more 02:04
- 6 restrictive policies are actually more 02:04
- 7 permissive than North Carolina in dealing with 02:05
- 8 voter ID? 02:05
- 9 A. Yes. Yes. 02:05
- 10 Q. Do you know how many? 02:05
- 11 A. Not offhand, no. 02:05
- 12 Q. When you use the word "mainstreaming" in your 02:05
- 13 opinion, what does that refer to? 02:05
- 14 A. Close to the median of states with regard to 02:05
- 15 that permissive/restrictive distinction. 02:05
- 16 Q. So mainstream according to you as using your 02:05
- 17 report means close to the median? 02:05
- 18 A. Close to the median. 02:05
- 19 Q. Looking at voter photo ID as you have 02:05
- 20 designated on page 7 of your report, 31 states 02:05
- 21 have more permissive policies and at least some 02:05
- 22 of the 18 states that you've listed as more 02:05
- 23 restrictive also have more permissive voter ID 02:06
- 24 policies than North Carolina, correct? 02:06
- 25 A. Yes. 02:06

1 Q. So that would not put North Carolina in the 02:06
2 mainstream in terms of its photo ID policies, 02:06
3 would it? 02:06

4 MR. STRACH: Objection. 02:06

5 THE WITNESS: By mainstream -- 02:06

6 MR. STRACH: Go ahead. 02:06

7 THE WITNESS: By mainstream, I 02:06
8 basically meant if you take into account 02:06
9 North Carolina's voting procedures in general, 02:06
10 I mean, it isn't just about photo ID, it's 02:06
11 about other things as well, such as early 02:06
12 voting. 02:06

13 We have procedures for absentee voting, 02:06
14 the cutoff for voter registration, and I think 02:06
15 that's an important point. It's not just about 02:06
16 photo ID. It's about the opportunities that 02:07
17 people have to cast a vote overall. 02:07

18 BY MR. NKWONTA: 02:07

19 Q. So how did you assess whether the combination 02:07
20 of laws overall fit within the mainstream or 02:07
21 not? 02:07

22 A. It was intuitive. If you look at the various 02:07
23 features that I focused on in the report, 02:07
24 North Carolina may be leaning towards a more 02:07
25 restrictive end in some things and in other 02:07

1 things not, such as -- such as procedures for 02:07
2 absentee voting. 02:07

3 North Carolina does not require any 02:07
4 kind of an excuse to be able to take advantage 02:07
5 of the absentee voting process and it's got a 02:07
6 60-day period in which that can be taken 02:08
7 advantage of, and I don't believe any other 02:08
8 state has a absentee voting procedure that 02:08
9 permissive. 02:08

10 Q. So what analysis did you do to determine that 02:08
11 the totality of the HB 589's amendments place 02:08
12 North Carolina in the mainstream rather than 02:08
13 any single amendment? 02:08

14 A. The analysis was if you look at these various 02:08
15 features, for the most part, North Carolina 02:08
16 falls pretty close to the center. 02:08

17 Q. Specifically you looked at each individual 02:08
18 feature as outlined in page 7 of your report, 02:08
19 correct? 02:09

20 A. Yes. 02:09

21 Q. So you looked at the voter photo ID 02:09
22 requirement, correct? 02:09

23 A. Yes. 02:09

24 Q. Determined where North Carolina fell along the 02:09
25 continuum of the voter photo ID requirement, 02:09

1 correct? 02:09

2 A. Yes. 02:09

3 Q. And you determined -- you determined based on 02:09

4 that that North Carolina was more restrictive 02:09

5 than the majority of the states, right? 02:09

6 MR. STRACH: Objection. He's already 02:09

7 talked about that, but -- so I am going to 02:09

8 object for the record, but answer it if you 02:09

9 can. 02:09

10 THE WITNESS: Yeah, if you look at 02:09

11 photo ID requirement in the abstract. 02:09

12 BY MR. NKWONTA: 02:09

13 Q. And you actually looked at the early voting 02:09

14 law, the pre-registration of minors? 02:09

15 A. Yeah, yeah. 02:09

16 Q. And voter registration, election day 02:09

17 registration? 02:09

18 A. Yes. 02:09

19 Q. You looked at all of those individually -- 02:09

20 A. Yes. 02:09

21 Q. -- to determine where North Carolina fell -- 02:09

22 A. Individually and on balance one could conclude 02:10

23 then that North Carolina would fit within close 02:10

24 to that median of what other states will allow. 02:10

25 Q. So what analysis did you do to determine that 02:10

1 North Carolina fit within the median when 02:10
2 combining or comparing all of these laws? 02:10

3 A. Intuitive balancing. 02:10

4 Q. But other than that, there was no statistical 02:10
5 analysis to determine whether -- 02:10

6 A. I did not give a weight to each item and then 02:10
7 develop any kind of a collective measure or 02:10
8 score, scoring North Carolina or any of the 02:10
9 other states. 02:10

10 Just if you look at each of these items 02:10
11 and intuitively balance what might be more 02:10
12 restrictive as opposed to permissive, 02:11
13 North Carolina falls pretty much within the 02:11
14 center. 02:11

15 Q. Would it be fair -- 02:11

16 MR. STRACH: Wait one second. Doctor, 02:11
17 just wait until he finishes the questions 02:11
18 before jumping in. 02:11

19 THE WITNESS: All right. 02:11

20 BY MR. NKWONTA: 02:11

21 Q. So would it be fair to say you eyeballed it? 02:11

22 A. Okay. 02:11

23 MR. STRACH: Objection. 02:11

24 BY MR. NKWONTA: 02:11

25 Q. Is that a "yes", would it be fair to say you 02:11

1 photo ID? 02:13

2 A. It all depends on what you call mainstream. 02:13

3 Q. I'm -- 02:13

4 MR. STRACH: Hold on, Doctor. Let 02:13

5 him -- 02:13

6 BY MR. NKWONTA: 02:13

7 Q. I'm defining mainstream the way that you did as 02:13
8 the median. 02:13

9 A. Okay. And close to it, close to it. 02:13

10 With regard to photo ID, maybe less so 02:13
11 than some of the other items, but it's not in 02:13
12 any way freakish. 02:13

13 Q. I just want to be clear. I wasn't sure if I 02:13
14 got the full answer. 02:13

15 You would agree that if you're looking 02:13
16 at voter ID, North Carolina's voter ID laws 02:14
17 does not fall within the mainstream of all 50 02:14
18 states, it's actually an outlier. 02:14

19 MR. STRACH: Objection. 02:14

20 BY MR. NKWONTA: 02:14

21 Q. Is that right? 02:14

22 A. I wouldn't call it an outlier because more and 02:14
23 more states are joining with North Carolina or 02:14
24 actually North Carolina is joining with a lot 02:14
25 more states. 02:14

- 1 A. Yes. 02:19
- 2 Q. In the chart on the next page, page 4, under 02:19
- 3 the column "Photo ID Required, Student ID 02:19
- 4 required" (sic) you list 13 states, correct? 02:19
- 5 A. Yeah. 02:19
- 6 Q. Is that an error? 02:19
- 7 A. Yeah, I think it was. 02:19
- 8 Q. You provide a list in Footnote 1 of the 02:20
- 9 states -- 02:20
- 10 A. Yeah. 02:20
- 11 Q. -- that require photo ID but accept student 02:20
- 12 ID -- 02:20
- 13 A. Yeah. 02:20
- 14 Q. -- right? 02:20
- 15 A. Yeah, yeah. 02:20
- 16 Q. Other than the statutes that you reviewed, 02:20
- 17 where else would you look to determine whether 02:20
- 18 a state allows students to present ID as a form 02:20
- 19 of photo identification? 02:21
- 20 A. If I remember correctly, I also looked at the 02:21
- 21 website for the conference of -- National 02:21
- 22 Conference of State Legislatures, NCSL. 02:21
- 23 Q. Would the individual state Secretary of States' 02:21
- 24 websites also have this information? 02:21
- 25 A. I couldn't tell you offhand. 02:21

- 1 Q. You didn't review those? 02:21
- 2 A. I didn't, no. 02:21
- 3 Q. Of the states you listed in Footnote 1, is 02:21
- 4 there a particular reason why you left Georgia 02:21
- 5 off the list? 02:21
- 6 A. Georgia isn't on the list because it's in the 02:21
- 7 other one, it's among the six that do not 02:22
- 8 accept student ID. 02:22
- 9 Q. How did you determine that Georgia was a state 02:22
- 10 that does not accept student ID? 02:22
- 11 A. Well, it had to have been because of the way I 02:22
- 12 read the statute. 02:22
- 13 Q. So if Georgia does indeed accept student IDs, 02:22
- 14 would you agree that your interpretation of the 02:22
- 15 statute would be incorrect then? 02:23
- 16 A. If that's the case, yes. 02:23
- 17 Q. Is there a particular reason you left Indiana 02:23
- 18 off the list of states that accept student ID 02:23
- 19 as ID for voters? 02:23
- 20 A. Well, I know they do so it would have been 02:23
- 21 inadvertent. 02:23
- 22 Q. So that would be an error as well? 02:23
- 23 A. Yeah. 02:23
- 24 Q. Is there a particular reason why you left 02:23
- 25 Louisiana off the list of states that accept 02:24

1 student ID as valid photo ID for voters? 02:24

2 A. I don't recall. 02:24

3 Q. Do you know if Louisiana accepts -- 02:24

4 A. Not offhand. 02:24

5 Q. -- student ID? 02:24

6 A. Not offhand. 02:24

7 Q. Would you have any reason to dispute that 02:24

8 Louisiana accepts student ID? 02:24

9 A. I can't think of any offhand, no. 02:24

10 Q. Is there any particular reason why you left 02:24

11 Mississippi off the list of states that accept 02:24

12 student ID as valid voter identification? 02:24

13 A. I can't remember. 02:24

14 Q. I am going to hand you what the court reporter 02:25

15 will mark as Exhibit 79. 02:25

16 (WHEREUPON, Exhibit 79 was marked for 02:25

17 identification.) 02:25

18 BY MR. NKWONTA: 02:25

19 Q. Exhibit 79 is a printout of a Mississippi 02:25

20 Secretary of State website that addresses the 02:25

21 list of acceptable photo ID for voters; is that 02:25

22 correct? 02:26

23 A. Yes. 02:26

24 MR. STRACH: I am going to object. We 02:26

25 assume this is authentic, but I'm going to 02:26

1 pre-registration, election day registration and 02:49
2 voter registration in general. 02:49

3 A. Yes. 02:49

4 Q. You conducted an analysis of all of them, an 02:49
5 intuitive analysis of all of them in order to 02:49
6 determine that North Carolina falls within the 02:49
7 median, correct? 02:49

8 A. Yes. 02:49

9 Q. Have you reviewed HB 589? 02:49

10 A. Yes. 02:49

11 Q. So you recognize that there are other laws in 02:49
12 HB 589 aside from the ones that you listed 02:49
13 here, right? 02:49

14 A. Yes. 02:49

15 Q. And there are other laws that affect voting and 02:49
16 access to the polls, correct? 02:49

17 A. Yes. 02:49

18 Q. And your analysis is only limited to the 02:49
19 provisions or the topics listed on page 7 of 02:49
20 your report, right? 02:50

21 A. Yes. 02:50

22 Q. So your analysis does not determine whether 02:50
23 HB 589 as a whole falls within the median of 02:50
24 states -- of the 50 states, right? 02:50

25 A. What I've done here is to take what I thought 02:50

- 1 were the most important factors. Basically 02:50
2 what I have here and said on balance 02:50
3 North Carolina falls within the mainstream of 02:50
4 other states in terms of the permissive/ 02:50
5 restrictive continuum. 02:50
- 6 Q. How did you determine that these were the most 02:50
7 important laws? 02:50
- 8 A. I guess they jumped out at me, I guess, 02:50
9 intuitive, I guess. These struck me as the 02:51
10 most salient. 02:51
- 11 Q. In looking at these laws, you assess, for 02:51
12 instance, the number of days of early voting 02:51
13 offered by North Carolina compared to other 02:51
14 states, correct? 02:51
- 15 A. Yes. 02:51
- 16 Q. Did you look at any other provisions or 02:51
17 restrictions or requirements of those states' 02:51
18 early voting laws? 02:51
- 19 A. Besides what I have here? 02:51
- 20 Q. Aside from the number of days of available 02:51
21 early voting, did you look at any other aspects 02:51
22 of the states' early voting laws in comparing 02:51
23 the restrictiveness with North Carolina's laws? 02:51
- 24 A. Not beyond what I have here. 02:51
- 25 Q. So you only compared the number of days of 02:51

1 available early voting, right? 02:51

2 A. Right. 02:51

3 Q. Your analysis of the restrictiveness of 02:52

4 North Carolina's laws in comparison to other 02:52

5 states' laws does not take into account any 02:52

6 additional restrictions that North Carolina or 02:52

7 other states may place on early voting, right? 02:52

8 A. Right. 02:52

9 Q. It doesn't take into account the hours of early 02:52

10 voting, does it? 02:52

11 A. No. 02:52

12 Q. It doesn't take into account the locations 02:52

13 available for early voting? 02:52

14 A. No. 02:52

15 Q. Are those factors relevant in determining how 02:52

16 restrictive an early voting law is? 02:52

17 MR. STRACH: Objection. 02:52

18 MR. NKWONTA: What's the nature of your 02:52

19 objection, Counsel? 02:52

20 MR. STRACH: What's your definition of 02:52

21 "relevant"? 02:52

22 BY MR. NKWONTA: 02:52

23 Q. Have you used the word "relevant" before in a 02:52

24 sentence, Dr. Schroeder? 02:52

25 MR. STRACH: Objection. Relevant means 02:52

1 different things to different people. What are 02:52
2 you contending it means to you in your 02:53
3 question? 02:53

4 MR. NKWONTA: By relevant, I mean more 02:53
5 likely or less likely to make the proposition 02:53
6 true or false. 02:53

7 MR. STRACH: Objection. Which 02:53
8 proposition? 02:53

9 MR. NKWONTA: The proposition that 02:53
10 North Carolina's early voting law or particular 02:53
11 early voting law is more restrictive or less 02:53
12 restrictive. 02:53

13 MR. STRACH: Objection. 02:53

14 Do you understand the question? 02:53

15 THE WITNESS: I think I do, and I -- I 02:53
16 did not factor things like hours, locations, 02:53
17 number of locations and so forth because I 02:53
18 think a lot of those would have been 02:54
19 administrative decisions made after the law was 02:54
20 already on the books. 02:54

21 There are too many factors that I can 02:54
22 think of that would have an impact on what 02:54
23 would be restrictive or permissive overall 02:54
24 given the early voting -- the early voting 02:54
25 provisions. 02:54

1 BY MR. NKWONTA: 02:54

2 Q. So why did you decide to limit your analysis to 02:54
3 the days of early voting only? 02:54

4 A. Well, I had to limit it and it struck me as the 02:54
5 most important factor affecting access to early 02:54
6 voting is the number of days in which -- which 02:55
7 are available for early voting. 02:55

8 Q. More important the number of hours? 02:55

9 A. Well, certainly number of days would affect 02:55
10 number of hours. I don't believe that was 02:55
11 information that was readily available from all 02:55
12 the statutes. Like I said, much of it is an 02:55
13 administrative decision. 02:55

14 Q. You didn't believe that the hours of early 02:55
15 voting was readily available in each state? 02:55

16 A. I don't know. 02:56

17 Q. You also discuss in your report that the 02:56
18 availability of no excuse mail-in absentee 02:56
19 voting cancels out or balances against 02:56
20 North Carolina's exclusion of student IDs from 02:56
21 the list of acceptable photo identification. 02:56

22 A. On balance, yes. 02:56

23 Q. Other than the availability of no excuse 02:56
24 mail-in absentee voting, did you assess any 02:56
25 other aspects of the absentee voting law to 02:56

1 determine its restrictiveness in comparison to 02:56
2 other provisions? 02:56

3 A. Not beyond what you see here in the report. 02:56

4 Q. Do you agree that there are other aspects of 02:57
5 absentee voting law that may make it more 02:57
6 restrictive or less restrictive aside from its 02:57
7 availability itself? 02:57

8 MR. STRACH: Objection. He's already 02:57
9 answered that. 02:57

10 You can answer it again if you want. 02:57

11 BY MR. NKWONTA: 02:57

12 Q. You may answer. 02:57

13 A. I honestly don't know. It would depend on the 02:57
14 factors. 02:57

15 Q. If an absentee voting law required a signature 02:57
16 verification, would that be more restrictive or 02:57
17 less restrictive than absentee or mail-in 02:57
18 absentee voting law that did not require a 02:57
19 signature verification? 02:57

20 A. I wouldn't find that to be one way or the 02:57
21 other. It's -- it's a procedure, it's a step. 02:57
22 We all have signatures. 02:58

23 Q. That would not affect your analysis at all? 02:58

24 A. No. 02:58

25 Q. In your approach to balancing these laws to 02:58

1 Q. What are those 13 states? 03:02

2 A. I'm trying to find what statement you're 03:02

3 referring to, where is it exactly. Paragraph 7 03:03

4 did you say? 03:03

5 Q. Yes. 03:03

6 A. And what was the assertion you asked me about? 03:03

7 Q. The second to the last sentence you're 03:03

8 discussing election day registration. So your 03:03

9 third to last sentence says "North Carolina no 03:04

10 longer allows voters to register on election 03:04

11 day. This is also true for 37 other states," 03:04

12 which implies there are 13 states that allow 03:04

13 voter registration. 03:04

14 A. I couldn't tell you offhand. 03:04

15 Q. So is it fair to say as we sit here today, 03:04

16 looking at your report, you are not able to 03:04

17 tell me which of the remaining states allow 03:04

18 election day registration? 03:04

19 A. No. 03:04

20 Q. No, it's not fair or, no, you cannot tell me? 03:04

21 A. I can't tell you. 03:04

22 Q. You mention that or you suggest that 03:04

23 North Carolina once had election day 03:05

24 registration. 03:05

25 A. Yes. 03:05

1 Q. Do you distinguish between election day 03:05
2 registration and same-day registration? 03:05

3 A. Yes. 03:05

4 Q. What is the distinction between election day 03:05
5 registration and same-day registration? 03:05

6 A. There is no distinction, no. I'm sorry. I 03:05
7 identify the two. 03:05

8 Q. Has North Carolina in your view ever allowed 03:05
9 voters to register on election day -- 03:05

10 A. Yes. 03:05

11 Q. -- as opposed to the one-stop voting period? 03:05

12 A. I don't know that. 03:05

13 Q. So as we sit here today, you don't know whether 03:05
14 North Carolina previously allowed voters to 03:05
15 register on election day or during a one-stop 03:05
16 voting period before election day? 03:06

17 A. Okay, I did know that, yes. That was my 03:06
18 understanding. 03:06

19 Q. I'm sorry, what was your understanding? 03:06

20 A. That a person engaged in early voting could 03:06
21 register and vote the same day. 03:06

22 Q. Outside of the one-stop period or after the 03:06
23 one-stop voting period, was a North Carolina 03:06
24 voter before HB 589 able to register on 03:06
25 election day? 03:06

- 1 A. Yes. 03:06
- 2 Q. So is it your belief that before HB 589 a voter 03:06
- 3 was able to register during the one-stop voting 03:06
- 4 period or early voting period and on election 03:06
- 5 day? 03:06
- 6 A. Yes. 03:06
- 7 Q. Where did you obtain that information? 03:06
- 8 A. I'm trying to remember. I don't recall 03:06
- 9 offhand. 03:07
- 10 Q. You understand the distinction I'm making 03:07
- 11 between the one-stop voting period -- 03:07
- 12 A. Yes. 03:07
- 13 Q. -- during the early voting and on election day? 03:07
- 14 A. Yes. 03:07
- 15 Q. And it's your testimony that you believe voters 03:07
- 16 before HB 589 were able to register on both the 03:07
- 17 early voting period and on election day? 03:07
- 18 A. Yeah, that was my understanding, but I couldn't 03:07
- 19 tell you -- I couldn't footnote that offhand. 03:07
- 20 Q. Now, we're still on page 5 of your report. 03:07
- 21 Looking at the voter registration chart you 03:07
- 22 list or you indicate that the 20 states have 03:08
- 23 voter registration cutoff days between 26 and 03:08
- 24 30 days before election day, correct? 03:08
- 25 A. Yes. 03:08

1 Q. And Footnote 7 you list those states, correct? 03:08

2 A. Yes. 03:08

3 Q. You also indicate in Footnote 7 that 03:08

4 Connecticut and North Dakota was not available. 03:08

5 I assume that means you were not able 03:08

6 to find data for those two states. 03:08

7 A. Yeah. 03:08

8 Q. Where would you typically look to find that 03:08

9 data? 03:08

10 A. And actually in the case of North Dakota, I 03:08

11 don't believe they have registration at all. 03:08

12 Q. So North Dakota should not be included in the 03:08

13 list of states that offer registration cutoff 03:08

14 dates between 26 and 30 days? 03:09

15 A. Yes. 03:09

16 Q. So the inclusion there was a mistake? 03:09

17 A. No. They're -- it is -- it's not a mistake. I 03:09

18 list the 20 states. Connecticut and North 03:09

19 Dakota were not -- were not included amongst 03:09

20 the 20. 03:09

21 Q. Fair enough. Would you agree there is data 03:09

22 available for North Dakota? 03:09

23 MR. STRACH: Object -- hold. 03:09

24 Objection. It doesn't say data not available 03:09

25 just for the record. 03:09

1 different. 03:13

2 BY MR. NKWONTA: 03:13

3 Q. On the same chart, if you would look at the 03:13
4 deadline for Maine, it says zero there, right? 03:13

5 A. Yes. 03:13

6 Q. Are you aware that Maine allows voters to 03:13
7 register in person without a cutoff up until 03:13
8 election day? 03:13

9 A. Again, I would have to check my notes, but 03:13
10 offhand, no. 03:14

11 Q. You would agree that what's on this chart is 03:14
12 inconsistent with what's in your report? 03:14

13 MR. STRACH: Objection. I don't 03:14
14 believe that's the case. 03:14

15 THE WITNESS: Certainly zero is less 03:14
16 than 24. 03:14

17 BY MR. NKWONTA: 03:14

18 Q. Paragraph 8 of your report then goes on to 03:15
19 discuss pre-registration, right? 03:15

20 A. Yes. 03:15

21 Q. What is your understanding of the term 03:15
22 "pre-registration"? 03:15

23 A. They could register to vote before they were 03:15
24 eligible to vote. 03:15

25 Q. You would agree that pre-registration applies 03:15

1 to registration laws or procedures that allow 03:15
2 both 16-year-olds and 17-year-olds to vote, 03:15
3 right? 03:15

4 A. Say that again. 03:15

5 Q. You would agree that pre-registration would 03:15
6 refer to laws that allow both 16- and 03:15
7 17-year-olds to register? 03:15

8 A. To register, yes. 03:15

9 Q. Why does your report only address the 03:15
10 pre-registration of 16-year-olds? 03:15

11 MR. STRACH: Objection. 03:15

12 THE WITNESS: Again, North Carolina 03:15
13 allows for the pre-registration of citizens as 03:16
14 young as 17 years old. 03:16

15 MR. STRACH: 16 years old. 03:16

16 THE WITNESS: 16, rather, 16 years old. 03:16

17 BY MR. NKWONTA: 03:16

18 Q. If you read that paragraph, paragraph 8 further 03:16
19 down, I believe the second to the last 03:16
20 sentence, it says "This puts North Carolina 03:16
21 more in line with the practices of other 03:16
22 states. Only five states (Rhode Island, 03:16
23 Colorado, Hawaii, Florida and Maryland) and the 03:16
24 District of Columbia pre-register 03:16
25 16-year-olds," right? 03:16

- 1 A. Okay, that's what it says. 03:16
- 2 Q. Did you assess the number of states that 03:16
- 3 pre-register 17-year-olds? 03:16
- 4 A. Are you referring to those states that allow 03:16
- 5 17-year-olds to register to vote who are 03:17
- 6 going -- who are going to be 18 by the time the 03:17
- 7 election rolled around? 03:17
- 8 Q. I'm referring to all states that allow 03:17
- 9 17-year-olds to register, so that includes 03:17
- 10 states that allow 17-year-olds to register who 03:17
- 11 will be 18 at the time of election and states 03:17
- 12 that allow 17-year-olds to register who will 03:17
- 13 not be 18 at the time election day comes 03:17
- 14 around. 03:17
- 15 A. Yeah. If -- I use that figure because there 03:17
- 16 are a number of states, including 03:17
- 17 North Carolina, that will allow 17-year-olds to 03:17
- 18 register to vote so long as on election day 03:17
- 19 they will be 18. 03:17
- 20 Q. Do you agree there are states that allow 03:18
- 21 17-year-olds to register regardless of whether 03:18
- 22 they will be 18 on election day? 03:18
- 23 A. Again, I assume so if they allow for 03:18
- 24 pre-registration. 03:18
- 25 Q. Do you agree that there are states that do not 03:18

1 allow 16-year-olds to pre-register but allow 03:18
2 17-year-olds to pre-register regardless of 03:18
3 whether they'll be 18 on election day? 03:18

4 A. I couldn't tell you offhand. 03:18

5 Q. Did you review the state laws to determine if 03:18
6 they allowed 17-year-olds to pre-register even 03:18
7 if they were not 18 at the time of the 03:18
8 election? 03:18

9 A. I'm not sure if I took that into account, to 03:18
10 tell you the truth. 03:19

11 Q. If there are states that allow 17-year-olds to 03:19
12 pre-register regardless of when they turn 18, 03:19
13 then that would increase the number of states 03:19
14 that allow for pre-registration, right? 03:19

15 MR. STRACH: Objection. 03:19

16 THE WITNESS: I would allow for that as 03:19
17 a possibility, yeah. 03:19

18 BY MR. NKWONTA: 03:19

19 Q. But as we sit here today, you can't tell us how 03:19
20 many states -- 03:19

21 A. I can't. 03:19

22 Q. -- fall into that category? 03:19

23 A. I could not. 03:19

24 Q. In the table right below paragraph 8 you 03:19
25 indicate that five states allow for 03:19

1 pre-registration of minors, right? 03:20

2 A. Yes. 03:20

3 Q. And that number does not include the District 03:20

4 of Columbia, right? 03:20

5 A. Right. 03:20

6 Q. In Footnote 9, however, you list the states 03:20

7 that allow for pre-registration of minors. 03:20

8 A. Yes. 03:20

9 Q. And you include the District of Columbia. 03:20

10 A. Right. Right. And that's because the District 03:20

11 of Columbia isn't a state. 03:20

12 MR. NKWONTA: Can we go off the record 03:21

13 for two minutes. 03:21

14 THE VIDEOGRAPHER: Off record at 3:21. 03:21

15 (Brief Recess.) 03:21

16 THE VIDEOGRAPHER: On record at 3:22. 03:21

17 BY MR. NKWONTA: 03:22

18 Q. Dr. Schroeder, still looking at Footnote 9, 03:22

19 which is a list of states that allow 03:22

20 pre-registration of minors, is there a 03:22

21 particular reason why you did not include 03:22

22 Delaware in this list? 03:22

23 A. I included Delaware -- okay, never mind. 03:22

24 I couldn't tell you offhand. 03:23

25 Q. Do you think Delaware should have been included 03:23

1 is that right? 03:31

2 A. Would you repeat the question? 03:31

3 Q. Sure. In paragraph 9, subsection (b) you 03:31

4 suggest that the changes to early voting or 03:31

5 one-stop voting take effect in 2016, correct? 03:32

6 A. Yes. 03:32

7 Q. Is that accurate or is that in error? 03:32

8 A. I guess it takes effect this year, doesn't it? 03:32

9 Q. Do you believe that statement to be accurate or 03:32

10 in error? 03:32

11 A. It's off by two years. 03:32

12 Q. In the chart below it states -- titled "Early 03:33

13 Voting Schedule" you list the number of states 03:33

14 with more than 10 days of early voting, 10 days 03:33

15 of early voting, less than 10 days and no early 03:33

16 voting, correct? 03:33

17 A. Yes. 03:33

18 Q. In Footnote 12 you list 19 states that 03:33

19 purportedly do not have early voting, correct? 03:33

20 A. Yes. 03:33

21 Q. Why did you include California in that list? 03:34

22 A. I couldn't tell you offhand other than that was 03:34

23 the way I read it. 03:34

24 Q. So your interpretation of the California law in 03:34

25 all the materials you reviewed was that 03:34

- 1 California does not offer any early voting? 03:34
- 2 A. Yes. 03:34
- 3 Q. When you determined the number of states that 03:34
- 4 include early voting, did you include the 03:35
- 5 states that offer the opportunity to cast an 03:35
- 6 absentee ballot in person? 03:35
- 7 A. Yes. 03:35
- 8 Q. And did you try to designate those states as 03:35
- 9 early voting states or non-early voting states? 03:35
- 10 A. I would designate them as early voting states. 03:35
- 11 Q. You listed Montana as a state that does not 03:35
- 12 offer early voting. Is it your understanding 03:35
- 13 that Montana does not offer early voting or 03:35
- 14 in-person absentee voting? 03:35
- 15 A. That would have been at the time, yes. 03:35
- 16 Q. You listed New Jersey as a state that does not 03:35
- 17 offer early voting. Is it your understanding 03:35
- 18 that New Jersey does not offer early voting or 03:35
- 19 in-person absentee voting? 03:35
- 20 A. That was my understanding. 03:35
- 21 Q. You also listed Washington in Footnote 12. Is 03:35
- 22 it your understanding that Washington state 03:36
- 23 does not allow for in-person early voting or 03:36
- 24 in-person absentee voting? 03:36
- 25 A. Yes. 03:36

- 1 Q. Is it your understanding that all of the states 03:36
2 listed in Footnote 12 do not allow voters to 03:36
3 cast their absentee ballots in person before 03:36
4 election day? 03:36
- 5 A. That was my -- that was my reading of them, 03:36
6 yes. 03:36
- 7 Q. If you look at the states that provide early 03:37
8 voting, would you agree that the majority 03:37
9 provide more than 10 days of early voting? 03:37
- 10 A. Yes. 03:37
- 11 Q. According to your chart, at least 25 states 03:37
12 provide more than 10 days of early voting, 03:37
13 correct? 03:37
- 14 A. Yes. 03:37
- 15 Q. According to your chart, only five states 03:37
16 provide 10 days or less of early voting, 03:37
17 correct? 03:37
- 18 A. I have three states down there. 03:37
- 19 Q. You also have West Virginia and Hawaii 03:37
20 providing 10 days of early voting, correct? 03:37
- 21 A. Yes. 03:37
- 22 Q. So according to your chart, five states provide 03:37
23 10 days or less of early voting, right? 03:38
- 24 A. Yes. 03:38
- 25 Q. So among all states that provide early voting, 03:38

1 North Carolina, correct? 03:39

2 A. Yes. 03:39

3 Q. If you were just looking at early voting 03:40

4 states, would the number of early voting days 03:40

5 provided by North Carolina place it within the 03:40

6 mainstream of early voting states? 03:40

7 MR. STRACH: Objection. That's opined 03:40

8 on in the report. 03:40

9 You can answer it if you can. 03:40

10 THE WITNESS: Oh, I had a communication 03:41

11 problem. I really don't want to go any further 03:41

12 than what I've done right here. 03:41

13 BY MR. NKWONTA: 03:41

14 Q. I want to turn back to your Policy Continuum 03:41

15 comparison on page 7 of your report. 03:41

16 In conducting your intuitive balancing 03:41

17 of the different HB 589 provisions or 03:41

18 amendments, did you consider the relative use 03:41

19 among -- of these provisions like early voting, 03:41

20 pre-registration among black and Latino voters? 03:41

21 A. No, that wouldn't be on the scope of what I was 03:42

22 trying to do here. 03:42

23 Q. In your assessment of restrictiveness was just 03:42

24 based on whether the state offered 03:42

25 pre-registration, on whether the state offered 03:42

1 election day registration and whether there's a 03:42
2 voter ID requirement? 03:42

3 MR. STRACH: I am going to object to 03:42
4 the use of the phrase "whether the state 03:42
5 offered" because that's different whether the 03:42
6 state enacted in a law versus whether a state 03:42
7 offered something administratively. 03:42

8 You can answer the question. 03:42

9 THE WITNESS: Yeah, I'm not quite sure 03:42
10 what the question is at this point. Would you 03:42
11 repeat it, please. 03:42

12 BY MR. NKWONTA: 03:42

13 Q. Sure. When you were assessing the 03:42
14 restrictiveness of the voter ID requirement, 03:42
15 you were only assessing whether the state had a 03:43
16 voter ID requirement or whether it did not have 03:43
17 voter ID requirement? 03:43

18 A. Yes. 03:43

19 Q. When you were assessing the restrictiveness of 03:43
20 the early voting laws or amendments -- 03:43

21 A. Yes. 03:43

22 Q. -- you were only assessing the number of days 03:43
23 of early voting, correct? 03:43

24 A. Yes, yes. 03:43

25 Q. When you were assessing the restrictiveness or 03:43

1 permissiveness of the pre-registration laws, 03:43
2 you were assessing whether a state had 03:43
3 pre-registration or did not, right? 03:43

4 A. Yes. 03:43

5 Q. Same with election day voter registration? 03:43

6 A. Yes. 03:43

7 Q. And the same with the number of days of voter 03:43
8 registration? 03:43

9 A. Yes. 03:43

10 Q. You did not consider the demographic in any of 03:43
11 these states? 03:43

12 A. I did not. 03:43

13 Q. You did not consider the rates at which the 03:43
14 residents of those states were registered? 03:43

15 A. No. 03:43

16 Q. Would you agree that when comparing different 03:44
17 states or different jurisdiction or locales 03:44
18 that the context is important? 03:44

19 MR. STRACH: Objection. 03:44

20 THE WITNESS: For the purposes of this 03:44
21 study, no. 03:44

22 BY MR. NKWONTA: 03:44

23 Q. What was the purpose of this study? 03:44

24 A. The purpose was just simply to show that if you 03:44
25 look at what is on the books, North Carolina 03:44

1 does not fall on either extreme of what exists 03:44
2 on -- of what exists on the books in each of 03:44
3 the 50 states. 03:44

4 Q. So the purpose was just to show what each of 03:44
5 the 50 state's laws were and where 03:44
6 North Carolina's law -- 03:44

7 A. Right. 03:44

8 Q. -- fell? 03:45

9 A. Right. 03:45

10 Q. I want to turn back to an earlier paragraph in 03:45
11 your report. In paragraph 3 of your report on 03:45
12 page 2, the first sentence states: 03:45

13 "The cumulative effect of these 03:45
14 amendments enhances the ability of 03:45
15 election officials to verify the 03:45
16 eligibility of persons who cast votes, 03:45
17 although it may also make the process 03:45
18 of voting less convenient for some." 03:45

19 Is that part of your opinion? 03:45

20 A. Yes. 03:45

21 Q. So are you saying that your opinion is that the 03:45
22 cumulative effect of these amendments enhances 03:45
23 the ability of election officials to verify the 03:45
24 eligibility of persons who cast votes? 03:46

25 A. Yes. 03:46

1 scientific? 04:07

2 A. It could. 04:07

3 MR. STRACH: Objection. I'm sorry. 04:07

4 Objection. It really depends on what you mean 04:07

5 by "scientific." I think that term is vague. 04:07

6 So I am just going to object for that reason. 04:07

7 THE WITNESS: I think the term is vague 04:07

8 and for that reason I would have to say yes. 04:07

9 BY MR. NKWONTA: 04:07

10 Q. You mention that you were on the local board of 04:07

11 elections. 04:07

12 A. Yes. 04:07

13 Q. Was this a -- were you a county board of -- BOE 04:07

14 official? 04:07

15 A. Harnett County. 04:07

16 Q. I'm sorry. Which county? 04:07

17 A. Harnett County. 04:07

18 Q. And when were you on the board? 04:07

19 A. It was in the early '80s. 04:07

20 Q. How long did you serve? 04:08

21 A. About four years. 04:08

22 Q. When you say early '80s, do you mean before 04:08

23 1985? 04:08

24 A. I'm trying to think. Jim Martin was elected 04:08

25 governor in '84, was it? 04:08

1 MR. BROOK: Yes. 04:08

2 THE WITNESS: So it would have been the 04:08

3 second half of the '80s. It was after Jim 04:08

4 Martin was elected governor. 04:08

5 BY MR. NKWONTA: 04:08

6 Q. Dr. Schroeder, do you consider yourself an 04:08

7 expert in state election laws? 04:08

8 A. Yes. 04:08

9 Q. What work have you done to develop that 04:09

10 expertise and all the different state election 04:09

11 laws? 04:09

12 A. I can point to my general qualifications as to 04:09

13 how I was educated, trained and the jobs that I 04:09

14 have had. The training in political science 04:09

15 that I got at Duke was pretty broad covering 04:09

16 most facets of political matters. 04:09

17 I was originally hired at Campbell 04:09

18 University in order to teach state and local 04:09

19 government. I also taught municipal politics, 04:09

20 and I already pointed out the fact that I have 04:09

21 been a political junkie since age 13. I just 04:09

22 keep an eye on these things. 04:10

23 Q. Before counsel for defendants sent you the 50 04:10

24 state laws or 50 state election laws, had you 04:10

25 reviewed those laws before? 04:10

1 A. Not those particular laws, no. 04:10

2 Q. So working on this case was the first time you 04:10

3 reviewed -- 04:10

4 A. These particular laws. 04:10

5 Q. I appreciate your answer. I just want to 04:10

6 remind you that I need to get my question out 04:10

7 before. I'm not sure if the court reporter got 04:10

8 all that so I will have to restate it. 04:10

9 Was this case the first time you 04:10

10 reviewed the election laws that you analyzed in 04:10

11 your opinion? 04:10

12 A. Yes. 04:10

13 Q. Dr. Schroeder, do you consider yourself an 04:11

14 expert in voter eligibility or voter fraud? 04:11

15 A. Yes. 04:11

16 Q. Have you conducted any research or written any 04:11

17 papers on voter eligibility or voter fraud? 04:11

18 A. I have not. 04:11

19 MR. NKWONTA: I believe that's all the 04:11

20 questions I have at this moment, and I will 04:11

21 pass the witness. 04:11

22 Do you want to go off the record for 04:11

23 five minutes, Josh? 04:11

24 MR. KAUL: No, I'm happy to move 04:11

25 forward, but I don't want to interrupt if 04:11

1 anybody else has questions, although if you 04:11
2 want to take a break, that's fine with me too. 04:11

3 MR. STRACH: We're fine to go forward. 04:11

4 MR. NKWONTA: We can go forward. 04:11

5 EXAMINATION 04:11

6 BY MR. KAUL: 04:11

7 Q. Dr. Schroeder, my name is Josh Kaul. I'm an 04:11
8 attorney with Perkins Coie, and we represent 04:11
9 the intervenors in this case known as the Duke 04:12
10 plaintiffs. 04:12

11 First of all, let me ask you, can you 04:12
12 hear me all right? 04:12

13 A. Uh-huh. Yes, I can. 04:12

14 Q. If I say anything and you have trouble hearing, 04:12
15 please let me know. 04:12

16 A. Okay. 04:12

17 Q. First focusing just on North Carolina's voter 04:12
18 identification law, is it fair to say that you 04:12
19 don't know of a single state that has a more 04:12
20 restrictive voter ID law than North Carolina? 04:12

21 MR. STRACH: Objection. 04:12

22 MR. KAUL: Let me rephrase that. 04:12

23 BY MR. KAUL: 04:12

24 Q. Do you know of any state that in your opinion 04:12
25 has a more restrictive voter ID law than 04:12